

# HB3800



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3800

Introduced 2/25/2009, by Rep. Darlene J. Senger - Michael G. Connelly

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-9.4

Amends the Criminal Code of 1961. Provides that it is a Class 4 felony for a child sex offender to knowingly be present in a library or to knowingly loiter within 500 feet of a library. Defines "presence".

LRB096 10690 RLC 22422 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 11-9.4 as follows:

6 (720 ILCS 5/11-9.4)

7 (Text of Section after amendment by P.A. 95-983)

8 Sec. 11-9.4. Approaching, contacting, residing, or  
9 communicating with a child within certain places by child sex  
10 offenders prohibited.

11 (a) It is unlawful for a child sex offender to knowingly be  
12 present in any public park building or on real property  
13 comprising any public park when persons under the age of 18 are  
14 present in the building or on the grounds and to approach,  
15 contact, or communicate with a child under 18 years of age,  
16 unless the offender is a parent or guardian of a person under  
17 18 years of age present in the building or on the grounds.

18 (b) It is unlawful for a child sex offender to knowingly  
19 loiter on a public way within 500 feet of a public park  
20 building or real property comprising any public park while  
21 persons under the age of 18 are present in the building or on  
22 the grounds and to approach, contact, or communicate with a  
23 child under 18 years of age, unless the offender is a parent or

1 guardian of a person under 18 years of age present in the  
2 building or on the grounds.

3 (b-1) It is unlawful for a child sex offender to knowingly  
4 be present in a library or to knowingly loiter within 500 feet  
5 of a library.

6 (b-5) It is unlawful for a child sex offender to knowingly  
7 reside within 500 feet of a playground, child care institution,  
8 day care center, part day child care facility, day care home,  
9 group day care home, or a facility providing programs or  
10 services exclusively directed toward persons under 18 years of  
11 age. Nothing in this subsection (b-5) prohibits a child sex  
12 offender from residing within 500 feet of a playground or a  
13 facility providing programs or services exclusively directed  
14 toward persons under 18 years of age if the property is owned  
15 by the child sex offender and was purchased before the  
16 effective date of this amendatory Act of the 91st General  
17 Assembly. Nothing in this subsection (b-5) prohibits a child  
18 sex offender from residing within 500 feet of a child care  
19 institution, day care center, or part day child care facility  
20 if the property is owned by the child sex offender and was  
21 purchased before the effective date of this amendatory Act of  
22 the 94th General Assembly. Nothing in this subsection (b-5)  
23 prohibits a child sex offender from residing within 500 feet of  
24 a day care home or group day care home if the property is owned  
25 by the child sex offender and was purchased before August 14,  
26 2008 (the effective date of Public Act 95-821) ~~this amendatory~~

1 ~~Act of the 95th General Assembly.~~

2 (b-6) It is unlawful for a child sex offender to knowingly  
3 reside within 500 feet of the victim of the sex offense.  
4 Nothing in this subsection (b-6) prohibits a child sex offender  
5 from residing within 500 feet of the victim if the property in  
6 which the child sex offender resides is owned by the child sex  
7 offender and was purchased before the effective date of this  
8 amendatory Act of the 92nd General Assembly.

9 This subsection (b-6) does not apply if the victim of the  
10 sex offense is 21 years of age or older.

11 (b-7) It is unlawful for a child sex offender to knowingly  
12 communicate, other than for a lawful purpose under Illinois  
13 law, using the Internet or any other digital media, with a  
14 person under 18 years of age or with a person whom he or she  
15 believes to be a person under 18 years of age, unless the  
16 offender is a parent or guardian of the person under 18 years  
17 of age.

18 (c) It is unlawful for a child sex offender to knowingly  
19 operate, manage, be employed by, volunteer at, be associated  
20 with, or knowingly be present at any: (i) facility providing  
21 programs or services exclusively directed towards persons  
22 under the age of 18; (ii) day care center; (iii) part day child  
23 care facility; (iv) child care institution; (v) school  
24 providing before and after school programs for children under  
25 18 years of age; (vi) day care home; or (vii) group day care  
26 home. This does not prohibit a child sex offender from owning

1 the real property upon which the programs or services are  
2 offered or upon which the day care center, part day child care  
3 facility, child care institution, or school providing before  
4 and after school programs for children under 18 years of age is  
5 located, provided the child sex offender refrains from being  
6 present on the premises for the hours during which: (1) the  
7 programs or services are being offered or (2) the day care  
8 center, part day child care facility, child care institution,  
9 school providing before and after school programs for children  
10 under 18 years of age, day care home, or group day care home is  
11 operated.

12 (c-5) It is unlawful for a child sex offender to knowingly  
13 operate, manage, be employed by, or be associated with any  
14 county fair when persons under the age of 18 are present.

15 (c-6) It is unlawful for a child sex offender who owns and  
16 resides at residential real estate to knowingly rent any  
17 residential unit within the same building in which he or she  
18 resides to a person who is the parent or guardian of a child or  
19 children under 18 years of age. This subsection shall apply  
20 only to leases or other rental arrangements entered into after  
21 January 1, 2009 (the effective date of Public Act 95-820) ~~this~~  
22 ~~amendatory Act of the 95th General Assembly.~~

23 (c-7) ~~(c-6)~~ It is unlawful for a child sex offender to  
24 knowingly offer or provide any programs or services to persons  
25 under 18 years of age in his or her residence or the residence  
26 of another or in any facility for the purpose of offering or

1 providing such programs or services, whether such programs or  
2 services are offered or provided by contract, agreement,  
3 arrangement, or on a volunteer basis.

4 (d) Definitions. In this Section:

5 (1) "Child sex offender" means any person who:

6 (i) has been charged under Illinois law, or any  
7 substantially similar federal law or law of another  
8 state, with a sex offense set forth in paragraph (2) of  
9 this subsection (d) or the attempt to commit an  
10 included sex offense, and:

11 (A) is convicted of such offense or an attempt  
12 to commit such offense; or

13 (B) is found not guilty by reason of insanity  
14 of such offense or an attempt to commit such  
15 offense; or

16 (C) is found not guilty by reason of insanity  
17 pursuant to subsection (c) of Section 104-25 of the  
18 Code of Criminal Procedure of 1963 of such offense  
19 or an attempt to commit such offense; or

20 (D) is the subject of a finding not resulting  
21 in an acquittal at a hearing conducted pursuant to  
22 subsection (a) of Section 104-25 of the Code of  
23 Criminal Procedure of 1963 for the alleged  
24 commission or attempted commission of such  
25 offense; or

26 (E) is found not guilty by reason of insanity

1 following a hearing conducted pursuant to a  
2 federal law or the law of another state  
3 substantially similar to subsection (c) of Section  
4 104-25 of the Code of Criminal Procedure of 1963 of  
5 such offense or of the attempted commission of such  
6 offense; or

7 (F) is the subject of a finding not resulting  
8 in an acquittal at a hearing conducted pursuant to  
9 a federal law or the law of another state  
10 substantially similar to subsection (a) of Section  
11 104-25 of the Code of Criminal Procedure of 1963  
12 for the alleged violation or attempted commission  
13 of such offense; or

14 (ii) is certified as a sexually dangerous person  
15 pursuant to the Illinois Sexually Dangerous Persons  
16 Act, or any substantially similar federal law or the  
17 law of another state, when any conduct giving rise to  
18 such certification is committed or attempted against a  
19 person less than 18 years of age; or

20 (iii) is subject to the provisions of Section 2 of  
21 the Interstate Agreements on Sexually Dangerous  
22 Persons Act.

23 Convictions that result from or are connected with the  
24 same act, or result from offenses committed at the same  
25 time, shall be counted for the purpose of this Section as  
26 one conviction. Any conviction set aside pursuant to law is

1 not a conviction for purposes of this Section.

2 (2) Except as otherwise provided in paragraph (2.5),  
3 "sex offense" means:

4 (i) A violation of any of the following Sections of  
5 the Criminal Code of 1961: 10-7 (aiding and abetting  
6 child abduction under Section 10-5(b)(10)),  
7 10-5(b)(10) (child luring), 11-6 (indecent  
8 solicitation of a child), 11-6.5 (indecent  
9 solicitation of an adult), 11-9 (public indecency when  
10 committed in a school, on the real property comprising  
11 a school, on a conveyance owned, leased, or contracted  
12 by a school to transport students to or from school or  
13 a school related activity, or in a public park), 11-9.1  
14 (sexual exploitation of a child), 11-15.1 (soliciting  
15 for a juvenile prostitute), 11-17.1 (keeping a place of  
16 juvenile prostitution), 11-18.1 (patronizing a  
17 juvenile prostitute), 11-19.1 (juvenile pimping),  
18 11-19.2 (exploitation of a child), 11-20.1 (child  
19 pornography), 11-20.3 (aggravated child pornography),  
20 11-21 (harmful material), 12-14.1 (predatory criminal  
21 sexual assault of a child), 12-33 (ritualized abuse of  
22 a child), 11-20 (obscenity) (when that offense was  
23 committed in any school, on real property comprising  
24 any school, on any conveyance owned, leased, or  
25 contracted by a school to transport students to or from  
26 school or a school related activity, or in a public



1 park). An attempt to commit any of these offenses.

2 (ii) A violation of any of the following Sections  
3 of the Criminal Code of 1961, when the victim is a  
4 person under 18 years of age: 12-13 (criminal sexual  
5 assault), 12-14 (aggravated criminal sexual assault),  
6 12-15 (criminal sexual abuse), 12-16 (aggravated  
7 criminal sexual abuse). An attempt to commit any of  
8 these offenses.

9 (iii) A violation of any of the following Sections  
10 of the Criminal Code of 1961, when the victim is a  
11 person under 18 years of age and the defendant is not a  
12 parent of the victim:

13 10-1 (kidnapping),  
14 10-2 (aggravated kidnapping),  
15 10-3 (unlawful restraint),  
16 10-3.1 (aggravated unlawful restraint).

17 An attempt to commit any of these offenses.

18 (iv) A violation of any former law of this State  
19 substantially equivalent to any offense listed in  
20 clause (2)(i) of this subsection (d).

21 (2.5) For the purposes of subsection (b-5) only, a sex  
22 offense means:

23 (i) A violation of any of the following Sections of  
24 the Criminal Code of 1961:

25 10-5(b)(10) (child luring), 10-7 (aiding and  
26 abetting child abduction under Section

1 10-5(b)(10)), 11-6 (indecent solicitation of a  
2 child), 11-6.5 (indecent solicitation of an  
3 adult), 11-15.1 (soliciting for a juvenile  
4 prostitute), 11-17.1 (keeping a place of juvenile  
5 prostitution), 11-18.1 (patronizing a juvenile  
6 prostitute), 11-19.1 (juvenile pimping), 11-19.2  
7 (exploitation of a child), 11-20.1 (child  
8 pornography), 11-20.3 (aggravated child  
9 pornography), 12-14.1 (predatory criminal sexual  
10 assault of a child), or 12-33 (ritualized abuse of  
11 a child). An attempt to commit any of these  
12 offenses.

13 (ii) A violation of any of the following Sections  
14 of the Criminal Code of 1961, when the victim is a  
15 person under 18 years of age: 12-13 (criminal sexual  
16 assault), 12-14 (aggravated criminal sexual assault),  
17 12-16 (aggravated criminal sexual abuse), and  
18 subsection (a) of Section 12-15 (criminal sexual  
19 abuse). An attempt to commit any of these offenses.

20 (iii) A violation of any of the following Sections  
21 of the Criminal Code of 1961, when the victim is a  
22 person under 18 years of age and the defendant is not a  
23 parent of the victim:

24 10-1 (kidnapping),  
25 10-2 (aggravated kidnapping),  
26 10-3 (unlawful restraint),

1           10-3.1 (aggravated unlawful restraint).

2           An attempt to commit any of these offenses.

3           (iv) A violation of any former law of this State  
4           substantially equivalent to any offense listed in this  
5           paragraph (2.5) of this subsection.

6           (3) A conviction for an offense of federal law or the  
7           law of another state that is substantially equivalent to  
8           any offense listed in paragraph (2) of this subsection (d)  
9           shall constitute a conviction for the purpose of this  
10          Section. A finding or adjudication as a sexually dangerous  
11          person under any federal law or law of another state that  
12          is substantially equivalent to the Sexually Dangerous  
13          Persons Act shall constitute an adjudication for the  
14          purposes of this Section.

15          (4) "Public park" includes a park, forest preserve, or  
16          conservation area under the jurisdiction of the State or a  
17          unit of local government.

18          (5) "Facility providing programs or services directed  
19          towards persons under the age of 18" means any facility  
20          providing programs or services exclusively directed  
21          towards persons under the age of 18.

22          (6) "Loiter" means:

23                 (i) Standing, sitting idly, whether or not the  
24                 person is in a vehicle or remaining in or around public  
25                 park property.

26                 (ii) Standing, sitting idly, whether or not the

1 person is in a vehicle or remaining in or around public  
2 park property, for the purpose of committing or  
3 attempting to commit a sex offense.

4 (7) "Playground" means a piece of land owned or  
5 controlled by a unit of local government that is designated  
6 by the unit of local government for use solely or primarily  
7 for children's recreation.

8 (8) "Child care institution" has the meaning ascribed  
9 to it in Section 2.06 of the Child Care Act of 1969.

10 (9) "Day care center" has the meaning ascribed to it in  
11 Section 2.09 of the Child Care Act of 1969.

12 (10) "Part day child care facility" has the meaning  
13 ascribed to it in Section 2.10 of the Child Care Act of  
14 1969.

15 (11) "Day care home" has the meaning ascribed to it in  
16 Section 2.18 of the Child Care Act of 1969.

17 (12) "Group day care home" has the meaning ascribed to  
18 it in Section 2.20 of the Child Care Act of 1969.

19 (13) ~~(11)~~ "Internet" means an interactive computer  
20 service or system or an information service, system, or  
21 access software provider that provides or enables computer  
22 access by multiple users to a computer server, and  
23 includes, but is not limited to, an information service,  
24 system, or access software provider that provides access to  
25 a network system commonly known as the Internet, or any  
26 comparable system or service and also includes, but is not

1 limited to, a World Wide Web page, newsgroup, message  
2 board, mailing list, or chat area on any interactive  
3 computer service or system or other online service.

4 (14) "Library" means any public library or library of  
5 an educational, historical, or eleemosynary institution,  
6 organization or society.

7 (15) "Presence" means physical as well as virtual  
8 presence.

9 (16) "Virtual presence" means the live or recorded  
10 depiction by computer of any sexual act.

11 (d-5) For the purposes of this Section, the 500 feet  
12 distance shall be measured from the edge of the property  
13 comprising the public park building or the real property  
14 comprising the public park, playground, child care  
15 institution, day care center, part day child care facility, or  
16 a facility providing programs or services exclusively directed  
17 toward persons under 18 years of age, or a victim of the sex  
18 offense who is under 21 years of age to the edge of the child  
19 sex offender's place of residence or where he or she is  
20 loitering.

21 (e) Sentence. A person who violates this Section is guilty  
22 of a Class 4 felony.

23 (Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08; 95-640,  
24 eff. 6-1-08; 95-819, eff. 1-1-09; 95-820, eff. 1-1-09; 95-821,  
25 eff. 8-14-08; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09;  
26 revised 10-20-08.)